IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8100 OF 2007

Jitendra Naranji Chande & Ors. ... .Petitioners
V/s
Divl. Joint Registrar & Ors ....Respondents.

Mr.C.J.Sawant, Sr.Adv. i/by Harita G. Shah Adv. For the petitioner.

Mr.R.M.Patne, AGP For the respondent Nos. 1, 2 and 6.

Mr.Shrihari Anney, Sr.Adv. With Mr.Vaibhav Joglekar, i/by Mr.Amit Potnis, Adv. For respondent Nos. 4 and 5.

Mr.A.C.Tamhane, Adv. For respondent No.3.

CORAM: A.P.DESHPANDE, J.

30/10/07

PC:

The Deputy Registrar after issuing show cause notice to the members of the Committee of the Society has passed an order under section 78 of the Maharashtra Cooperative Societies Act superseding the Committee and appointed an Administrator in its place. The show cause notice issued to the Committee members enumerate various acts of commission and omission on the part of the Committee members including an omission to furnish bonds as is mandatory by section 73(1)(AB) of the Act. After receiving reply and after consulting the federal society an order under section 78 as stated herein above came to be passed. Strangely enough the members of the Committee which was superseded did not file an appeal. However the Society filed an appeal. The appeal filed by

the society came to be dismissed and hence aggrieved by appellate order the society filed writ petition in this Court bearing No.7774/07. Said writ petition came to be dismissed by this Court by an order dated 19.10.07 after recording a finding that non compliance of section 73(1)(AB) has been clearly established. The petition filed by the society was also dismissed on the ground that the society could not have espoused the cause of members of the superseded committee. After dismissal of the petition filed by the society the committee members have filed this petition challenging the same order which was challenged by the society in writ petition 7774/07. Learned Senior Counsel Shri Anney appearing for respondent raised preliminary objection to the maintainability of this petition by contending that the present petitioners did not question the correctness of the order passed by the Deputy Registrar under section 78 by filing an appeal and hence committee members cannot challenge the appellate order by filing present writ petition. Objection raised is well merited and deserves to be upheld. In the result writ petition is dismissed as not maintainable. Learned senior counsel Shri Sawant appearing for the petitioners has contended that there has been no effective consultation with the federal society in as much as the reply filed by the committee members to the show cause notice under section 78 was not sent to the federal society. I decline to adjudicate this point as I have held that the writ petition itself is not maintainable. Hence writ petition is summarily dismissed.

30.10.07